



Appeal Decision

Site Visit made on 9 November 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2021

Appeal Ref: APP/D3505/W/21/3275062

Land at Newmans Green (North West of Walnut House), Acton CO10 0AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Elaine Miller against the decision of Babergh District Council.
 - The application Ref DC/21/00087, dated 6 January 2021, was refused by notice dated 31 March 2021.
 - The development proposed is described as the "erection of a detached one and a half storey dwelling and garage together with new vehicular access".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline form with only access for consideration. Matters relating to appearance, landscaping, layout and scale are reserved for future determination. The appellant has provided an indicative layout which I have treated as illustrative for the purposes of this appeal.
3. Since the submission of the appellant's appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. Whilst I have had regard to the revised Framework as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

4. The main issues in this appeal are the effect of the proposal on the:
 - character and appearance of the area;
 - living conditions of occupiers of the proposed dwelling with particular regard to privacy, and,
 - highway safety.

Reasons

Character and Appearance

5. The appeal site forms a parcel of land that sits to the rear of Walnut House and comprises mainly unmanaged grass and other vegetation. The site is on the

western edge of the village which itself is surrounded by open fields and agricultural land. The area is distinctly rural in character and has a pleasant and verdant character, with a distinct open quality that is reinforced by the presence of mature landscaping within this countryside setting.

6. Although close to the rear of Walnut House, the appeal site is separated from the surrounding built development and its curtilages by a drainage ditch. Whilst it has a different appearance to the adjoining agricultural field as a result of the vegetation upon it, it is evident that the appeal site nonetheless forms part of the rural edge to the village when viewed from the north and west, relating better to its rural surroundings to which it makes a positive contribution.
7. The site is quite large and the introduction of a dwelling on the site, such as that on the indicative plan provided by the appellant, need not appear cramped. However, whatever its final form, the proposed dwelling would nonetheless appear contrived through the suburbanisation of the site in a visually prominent position when approaching the village from the north. Notwithstanding the existing dwellings to the rear of the site, the development would extend the built environment into a visibly undeveloped and tranquil rural part of the village, the effect of which would be the detrimentally harmful erosion of the intrinsic landscape character of the site and the edge of the village. It would erode the rural qualities of the site and the area, resulting in harm to its character and appearance.
8. Moreover, in addition to the dwelling, it is also necessary to consider the visual impacts of the residential use such as the vehicle movements and parking associated with the development. Additional items such as fencing, external lighting, domestic cultivation, garden furniture and washing lines for the new dwelling would add to the suburbanising effect. I am not persuaded that the proposal would lead to an enhancement of the area and nor would the presence of other dwellings in the vicinity of the appeal site lessen the harm that I have identified.
9. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with Policies HS28 and CN01 of the Babergh District Council Local Plan 2006 (LP) and paragraph 130 of the Framework which seek, amongst other things, to ensure that developments pay particular regard to the environment surrounding the site.

Living Conditions

10. The Council state that the garden area of the proposed dwelling would be detrimentally affected through overlooking from Walnut House. Whilst I acknowledge the proximity of the appeal site in relation to Walnut House, it is not unusual for mutual overlooking to occur between properties and indeed garden areas. Although the level of potential overlooking cannot be gauged as matters relating to scale, appearance and layout are reserved for future consideration, it is likely that there are opportunities through landscaping and boundary treatments that could avoid potential harm in this regard.
11. Moreover, given the size of the appeal site, it is highly possible through the layout of the development that private amenity areas could be provided for future occupiers that would not be overlooked by any of the surrounding properties.

12. Thus, I am not persuaded that the development would result in harm to the living conditions of future occupiers of the proposed dwelling. It would not be in conflict with Policy HS28 of the LP and paragraph 130 of the Framework which seek, amongst other things, to ensure that developments are not detrimental to residential amenity.

Highway Safety

13. The development proposes a new access on the north-western edge of the site frontage. The Council state that the appellant has failed to demonstrate that this access would be safe and suitable for the development. The appellant's speed survey¹ confirmed that traffic passing the site did so at speeds below 30mph and that visibility splays of some 2.4m x 38m south and 2.4m x 36m north can be achieved.
14. The proposed access would egress onto a road which is the subject of a 30mph speed restriction, increasing to 60mph as one passes the site travelling northwards. During my visit, I also witnessed traffic passing the site at slow speeds as a result of the rural nature of the road, combined with its narrow width and speed restriction. Thus, although the appellant cannot demonstrate full compliance with the Council's visibility requirements, I am satisfied that the proposed visibility splays would be sufficient for the development and the new access need not result in harm to highway safety.
15. Thus, the development would not result in harm to highway safety. It would not be in conflict with Policy TP15 of the LP and paragraph 110 of the Framework which seek, amongst other things, to ensure that developments are provided with a safe and suitable access for all users.

Other Matters

16. I note that representations were made by local residents, raising additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Planning Balance

17. Although the Council state that it can currently demonstrate a five year supply of deliverable housing sites, the appellant argues that the Policies from the Babergh Local Plan Core Strategy & Policies 2014 are considered out-of-date and has provided several appeal decisions to support this stance. In such circumstances, the tilted balance at paragraph 11 d) of the Framework is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
18. There would be economic benefits resulting from the construction of the dwelling and as a small windfall development it is likely to be built out relatively quickly. There may also be social benefits from the provision of a dwelling, thereby assisting with the Council's need to boost the delivery of housing in the District. Combined, given that the proposal is for a single dwelling, I would attach moderate weight to these benefits.

¹ Letter from GH Bullard & Associates LLP dated 1 March 2021

19. However, good design and its impact on the character and appearance of an area along with sustainable development are recognised by the Framework. Accordingly, given my findings outlined above concerning the resultant harm to the character and appearance of the area, the proposal would fail to meet the environmental dimension of the Framework. Consequently, the harm I have found is serious and whether the policies that are the most important for determining the application are out-of-date or not, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. Thus, the application of the tilted balance in paragraph 11 of the Framework does not indicate that planning permission should be granted.

Conclusion

20. Thus, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. Therefore, the appeal is dismissed.

Graham Wyatt

INSPECTOR